

116th CONGRESS

1st Session

# H. R. \_\_\_\_

To direct the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, to conduct a study to assess the unintended impacts on the health and safety of people engaged in commercial sex in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164 ) and the loss of interactive computer services that host information related to sexual exchange, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. Khanna introduced the following bill; which was referred to the Committee on

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# A BILL

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people engaged in commercial sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164 ) and the loss of interactive computer services that host information related to sexual exchange, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

(a) Short Title: This Act may be cited as the “SAFETY & Health Impact Study Act: Surveying Affects of Frozen E-Platforms and Technology (SAFETY) and Health Impact Study Act”

**SECTION 1. Findings:**

[Congress finds the following:]

1. People who engage in the commercial sex trade utilize many forms of technology for a variety of reasons, including connection to community, harm reduction information and techniques, and to identify potential clients.
2. For LGBTQ individuals, and trans women of color in particular, commercial sex may provide the only viable method of economic solvency, due to discrimination in formal labor, services and educational opportunities.
3. In the 2015 US Transgender Survey, 19% of respondents reported doing some type of sex work in exchange for resources, such as for money, food, or a place to sleep.. For trans women of color, 42% reported having done some form of sex work.
4. Over the last several years, platforms which have both knowingly and unknowingly allowed people in commercial sex to utilize their services, have faced increasing levels of scrutiny, liability and direct criminalization.
5. On a broader scale, internet platforms foster connections between people and play an integral part in the lives of every American. Meaningful regulation of internet platforms must take into account the role they play in people’s lives.

6. People in commercial sex have always utilized technology to protect their health, safety and independence. This includes distribution of safety information, connection with other sex workers and basic community building, improved communication with potential clients and more independence from third parties. These mechanisms are essential for the distribution and implementation of harm reduction activities. One study has found that the creation of the “Adult Services” section on Craigslist.com correlated with a 17% drop in female homicides overall, identifying access to this platform as an important tool of harm reduction for those in commercial sex.
7. Websites which host information related to harm reduction tools are becoming increasingly digital and require consistent access to internet-based communication. While policymakers, representatives of internet platforms, and some advocates have discussed ways to mitigate the use of internet platforms to decrease exploitation, people who trade sex have not been involved in the drafting of legislation or policies, or in assessing their impact, despite being amongst the populations who are most impacted by the legislation and policies.
8. Last year, the United States Congress passed the Allow States to Fight Online Sex Trafficking Act, known as FOSTA, which expanded liability of internet platforms to both civil and criminal penalties, but lacked the important clarity for sites to determine whether or not they were operating within even the intention of the law.
9. Within moments of the bill’s passage through the Senate, websites preemptively closed down, some directly citing the law’s passage as the reason. One dating website with no explicit connection to the commercial sex trade closed their website and posted, “FOSTA increases our liability significantly and chips away at one of the primary reasons we as a small organization can provide services to the community - the protection we had previously been offered by Section 230 of the Communications and Decency Act.”
10. Additionally, just one week before the bill’s passage the Department of Justice seized Backpage.com, citing promotion of prostitution and money laundering charges, similar to the Department of Homeland Security’s seizure of Rentboy.com only a few years prior.

11. Websites which host information related to safety and community building, and individual accounts with information related to broader sexual health topics have also been closed or disabled.
12. While these websites and individual accounts have been closing down rapidly, there has been no rigorous investigation into the impact of losing access to these platforms on the health and safety of people in commercial sex. Significant anecdotal information from service providers and sex workers themselves has pointed to a number of significant impacts.
13. Losing access to these web platforms has increased the risks of violence, criminalization and reliance on third parties.
14. Losing access to these web platforms has meant that sex workers have lost economic stability. Community organizations have reported increased homelessness, including of sex workers who are caretakers for their entire families.
15. Sex workers have also reported a reduced ability to screen potential clients for safety, and negotiate for boundaries such as condom use, resulting in reports of physical and sexual violence.
16. Many sex workers have also increasingly turned to street-based work, where they face higher rates of policing and violence. Street-based sex workers have frequently noted practices which harm their health and safety, such as the confiscation of condoms by police, or use of condoms as evidence of arrest for prostitution.
17. With this new level of precarity, isolation and vulnerability, there is substantial anecdotal evidence that members of the sex work community are more frequently being contacted by third parties seeking to engage in management activities. This includes both sex workers who had always worked independently, as well as those who have previously experienced violence and exploitation by a third party.
18. Sex workers are also being contacted by clients who have histories of violent or exploitative behavior. Putting sex workers in a more vulnerable position economically and physically has meant that the community is now more vulnerable to trafficking and exploitation.
19. The United States government has long discussed the importance of assessing collateral consequences when looking at other industries. This study looks to better understand the impact on the health and safety of those

in commercial sex, who are increasingly losing access to digital platforms and spaces, which are critical for harm reduction information and techniques, and to screen clients. Informed government policies begin with seeking out relevant information to better inform our policies and actions moving forward.

SEC. 2. Study on unintended impacts on health and safety of people engaged in commercial sex resulting from loss of certain online resources.

(a) Study.—The Secretary of Health and Human Services acting through the Director of the National Institutes of Health (in this section referred to as the “Secretary”) shall study the impacts on the health and safety of people engaged in commercial sex resulting from the loss of access to interactive computer services (as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f))) that host information related to sexual exchange in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164 ) and other law enforcement activities, of

(b) Interviews and surveys.—The study under subsection (a) shall include interviews with, and surveys conducted by, nonprofit and street-based organizations that provide direct services to people engaged in commercial sex, including those who do not meet the designation of experiencing severe forms of trafficking.

(c) Topics.—The study under subsection (a) shall include assessment of the following impacts on people engaged in commercial sex:

- (1) Changes in access to technology-related harm reduction services.
- (2) Changes in ability to negotiate terms with potential clients.
- (3) Changes in experiences of violence from clients.
- (4) Changes in police surveillance, stops, and arrests.
- (5) Changes in contact from third parties.

- (6) Changes in relationship to and reliance on third parties.
- (7) Changes in experiences of exploitation.
- (8) Impacts on access to economic resources.
- (9) Impacts on homelessness and housing stability.
- (10) Impacts on mental health.
- (11) Impacts on vulnerability to the transmission of HIV and other sexually transmitted infections.
- (12) Changes in participation in other criminalized behavior.
- (13) Disparities in these effects on key populations typically underserved by service providers, specifically LGBTQ individuals, people living in rural areas, racial and ethnic minorities, Tribal communities and foreign nationals of every documentation status.

(d) Completion of study; report.—**[add?:** Not later than \_\_\_\_ after the date of enactment of this Act,**]** the Secretary shall—

- (1) complete the study under subsection (a); and
- (2) submit a report on the results of the study to the Congress and make such report available to the public.

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**BRAINSTORMING IDEAS for TITLES:**

**OFF THE STREETS Study Act:** Online Forums Freezing Threatening Harm-reduction Efforts  
STREETS Study Act

**DIGNITY:**

Digital Inaccessibility...GNI....Technologies.

**E-DISH:** Effects of Digital Inaccessibility on Safety and Health Study Act

**Unintended Consequences Study Act**

Unintended Health & Safety Consequences Study Act

Effects of Digital Platform Inaccessibility on Health and Safety Study